OECA and Regional Report

Week Ending December 4, 2015

Index:

Region 8

- **Region 8 Enters Into Settlement Agreement and Administrative Order on Consent for Performance of the RI/FS at the Columbia Falls Aluminum Plant Site in Flathead County, Montana**
- **EPA Settles With J.R. Simplot for CAA Violation under the Prevention of Significant Deterioration Program**

Region 9

- **District Court Issues Favorable Decision Dismissing ESA Citizens Suit Concerning CAA PSD Permitting and Enforcement for Gateway Generating Station**
- **EPA Settles CAA Claims Against J.R. Simplot Company's Five Sulfuric Acid Plants in California, Idaho, and Wyoming**

Region 10

- **DOJ Enters Consent Decree with J.R. Simplot Company (Lathrop, CA, Pocatello, ID and Rock Springs, WY) for CAA Violations**
- **Region 10 Settles with Moyle Mink and Tannery, Inc. for CWA Violations**

Office of Federal Activities

Regular Highlights:

Enforcement and Compliance Assurance Issues

OFA Provided Section 106 Training for Region 6 Staff

OFA provided onsite training for Region 6 staff on "Complying with the National Historic Preservation Act for EPA Actions." Almost every program and initiative at EPA is subject to National Historic Preservation Act (NHPA) compliance under NHPA Section 106. From superfund and brownfields sites to projects funded under the Clean Water and Clean Air Acts—all of these actions qualify as federal undertakings and are subject to review and compliance. Participants included representatives from ORC, SRF, superfund, and the Region 6 tribal office. In addition to the onsite training, the EPA NETI office provided remote connectivity for offsite participants. OFA will also provide onsite NHPA training in Region 5, December 7-10, 2015. Contact: Matt Nowakowski, 202-564-7156.

Office of Site Remediation Enforcement

Regular Highlights:

Enforcement and Compliance Assurance Issues

FY 2016 Superfund Regional Work Planning

OSRE and OSRTI held joint work planning meetings with each region between October 28 and November 19. Staff from OSRE and/or OSRTI visited each region as well as connected through adobe connect and teleconference lines. Discussions focused on how regions are handling priorities (including addressing highest risk site; implementing the remedial acquisition framework; minimizing processes; addressing mining sites; listing/moving on new sites; maximizing use of special accounts; community engagement/environmental justice; announcing new cleanup enforcement framework; as well as dealing with challenges (including declining resources (including declines in FTE) ; mining/sediment sites; unfunded "shovel ready' sites; aligning w/National program; input beyond the Region; and SEMS). In addition, discussions also covered extramural resources, program targets and GPRA measures accomplished in FY 2015 and setting program targets and estimates for FY 2016. Contacts: Alice Ludington at 202-564-6066 or Vince Velez at 202-564-4972.

United States Files Motion To Limit Judicial Review Of Response Action In $100 Million CERCLA Cost Recovery Case For Centredale Manor Superfund Site (North Providence, Rhode Island - Emhart v. United States Dept. of the Air Force, et al., Civ. Act. No. 11-023-S (D.R.I.)

On November 6, 2015, the Department of Justice (DOJ) filed a motion pursuant to section 113(j) of CERCLA seeking, in Phase II of litigation in this case, to limit to the administrative record the scope of judicial review of any response action by EPA made in connection with the Centredale Manor Restoration Project Superfund Site (Site). The motion asserted that under CERCLA, the scope of "judicial review of any issues concerning the adequacy of any response action taken or ordered by [EPA]" is limited to the administrative record. The standard of review is whether the selection of the response action was "arbitrary and capricious." Section 107(a) of CERCLA allows for recovery of all costs of removal and remedial action incurred by the United States not inconsistent with the National Contingency Plan, and section 113(j)(2) requires EPA's decisions regarding selection of response actions to be upheld "unless the objecting party can demonstrate, on the administrative record, that the decision was arbitrary and capricious or otherwise not in accordance with law. On November 20, 2015, Emhart Industries, Inc. and its parent, Black & Decker, Inc. (collectively referred to as Emhart) filed a motion to deny the United States' motion to limit discovery. The United States' reply is due December 8, 2015.

On November 4, 2015, the United States District Court for the District of Rhode Island (the Court) issued a revised case management order, scheduling Phase II of trial in Emhart v. United States Dept. of the Air Force, et al., Civ. Act. No. 11-023-S (D.R.I.). As partially set forth in the Eighth Revised Case Management Order, the scope of the matters to be addressed in Phase II

include: the remedy for the Site selected by EPA in September 2012; the costs incurred by the United States; and the issuance/enforcement of the Unilateral Administrative Order for Remedial Design, Remedial Action, and Operation and Maintenance for the Centredale Manor Restoration Project Superfund Site issued by EPA in June 2014 (the UAO), including EPA's claim for civil penalties and punitive damages. Trial will commence no earlier than May 1, 2016, as determined by the Court. On September 17, 2015, the Court in Phase I of the trial, issued a favorable 203-page decision holding Emhart jointly and severally liable as a past operator under CERCLA for contamination at the site. In Phase I the United States brought cost recovery claims CERCLA 107 and under CERCLA section 113 in contribution against Emhart as an operator/arranger and additional generator parties for the Site. The Site was placed on the National Priorities List (NPL) in 2000. The Record of Decision (ROD) was issued in September 2012, and addressed soil, sediment, groundwater, floodplain soil, surface water and biota contamination. EPA believes operations conducted by Emhart's predecessor generated the majority of a specific type of dioxin, which is the primary risk driver at the Site. EPA issued a UAO to Emhart in 2014 for performance of the remedy selected under the ROD. It is anticipated that the cost of the remedy and litigation will exceed $100 million. Emhart has sued the United States and the Department of the Air Force under CERCLA Section 107 and 113 alleging that the primary contaminant at the Site resulted from Agent Orange shipped to the barrel Site during the Vietnam War by the United States and also additional generators. OSRE Contact: Clarence Featherson, 564-4234.

OSRE Consultation on ChemServe Superfund Site Windfall Lien Resolution Agreement

OSRE management and staff consulted with Region 5 on an Agreement for Release and Waiver of Lien under CERCLA § 107(r). This agreement is proposed for prospective purchasers of the ChemServe Superfund Site (Site) which is a four-acre former chemical blending and distribution facility located in a depressed area in Detroit, Michigan. EPA conducted a removal action at the Site from 2007-08 which removed containers, drums, and tanks. Total EPA cleanup costs are over $2.8 million and settlement offers have been provided to three known liable parties. The agreement also includes language to resolve a potential CERCLA 107(l) Superfund lien, which had expired on the property in 2011. The purchasers represent that they are bona fide prospective purchasers (BFPPs) under CERCLA § 101(40) and will pay $10,000 in consideration for the agreement, which will allow the parties to move forward with the purchase of the Site and will result in it being properly managed and cared for. Region 5 anticipates that ongoing vandalism issues at the Site will be reduced and that the purchase will result in significant economic benefits to the local community. OSRE Contact: Craig Boehr, 202-564-5162.

Region 1

Regular Highlights:

Enforcement and Compliance Assurance Issues

Court Enters Swampscott, MA Consent Decree [Case 1:15-cv-13388-DJC]
The U.S. District Court for the District of Massachusetts recently entered a consent decree requiring the Town of Swampscott, Massachusetts to pay a civil penalty of $65,000 for violations of the Clean Water Act. Swampscott failed to comply with its NDPES permit authorizing discharges from the Town's municipal separate storm sewer system (MS4). In addition to requiring payment of a civil penalty, the consent decree requires the Town to effectively prohibit the introduction of non-stormwater discharges into the MS4, conduct dry and wet weather monitoring of each MS4 outfall, identity the sources of, and eliminate, non-stormwater discharges into the MS4, and design and implement infrastructure improvements necessary to prevent non-stormwater sources, including the Town's sewer underdrain system, from contributing pollutants to stormwater discharges to the MS4. Contact: Neil Handler, 617-918-1334; Michael Wagner, 617-918-1735.

Region 2

Regular Highlights:

Enforcement and Compliance Assurance Issues

CAA/RCRA Joint Stipulation of Settlement and Order Filed in *United States v. General Electric Co*

On December 2, 2015, the Department of Justice and State of New York filed in the Federal District Court in the Northern District of New York both a civil Complaint and a Joint Stipulation that had been negotiated with the General Electric Company. The Joint Stipulation, if approved by the district court judge, will resolve a civil enforcement action on behalf of EPA and the New York State Department of Environmental Conservation ("DEC") alleging that, from 2001 through February 2007, GE violated the Clean Air Act and RCRA and their implementing regulations, and permits issued pursuant to those statutes, as well as corresponding New York State laws and regulations. The allegations arose in connection with GE's ownership and/or operation of a rotary kiln incinerator at a manufacturing facility located in Waterford, New York. Under the Stipulation, GE will be paying a combined civil penalty in the amount of $2,250,000 for the violations; the United States and the State of New York will each receive half of that amount, i.e., $1,125,000.

The specific violations alleged in the Complaint are that GE failed to: (a) comply with the DEC-issued CAA Title V permit by allowing the incinerator at the Waterford facility to emit carbon monoxide in excess of 100 parts per million; (b) continuously operate the incinerator's Automatic Waste Feed Cut-Off ("AWFCO") system; (c) continuously monitor the incinerator's operating parameters; (d) identify noncompliance with the incinerator's Operating and Monitoring Parameters in annual Title V compliance certifications; (e) maintain a functioning AWFCO for the incinerator; (f) cease operating the incinerator when operating conditions exceeded limits designated in the CAA Title V and RCRA permits; and (g) have a valid DEC-issued hazardous waste permit when operating the incinerator between December 2006 and February 2007. Contacts: Gary Nurkin, 212-637-3195; Kara Murphy, 212-537-3211; Anhthu Hoang, 212-637-5033; Abdool Jabar, 212-637-4051 and Ralph Lonergan, 212-3516.

Region 3

Regular Highlights:

Enforcement and Compliance Assurance Issues

First Amendment to Consent Decree Lodged in United States, State of Maryland, et al v. Washington Suburban Sanitary Commission [Civil Action No. PJM-3679]

On November 30, 2015, the United States Department of Justice lodged a Second Amendment to Consent Decree with the United States District Court for the District of Maryland in the case of *United States, State of Maryland, et al. v. Washington Suburban Sanitary Commission*. On December 7, 2005, the District Court entered a Consent Decree in this case resolving civil claims that WSSC had violated the CWA and Maryland water pollution control, health and nuisance laws. Four citizen groups – the Anacostia Watershed Society, the Audubon Naturalist Society, Friends of Sligo Creek, and Natural Resources Defense Council intervened as plaintiffs in the underlying civil action. In a First Amendment to the Consent Decree another citizen group – the Patuxent Riverkeeper also intervened as a plaintiff. The overarching purpose of the 2005 Consent Decree is to eliminate sanitary sewer overflows (SSOs) occurring in WSSC's collection system. The 2005 Consent Decree as entered, requires WSSC to complete collection system repair work by December 7, 2015. Although WSSC has completed the majority of this work, it has been unable to complete a sizable portion of the work due to delays in obtaining necessary permits from governmental agencies, and the need to institute condemnation proceedings to obtain access to private property to perform sewer work.

In the proposed Second Amendment, the United States, Maryland and WSSC have agreed that WSSC shall have six additional years to complete most of the "delayed work." The Second Amendment makes an exception to the overall six year extension for delayed work affecting lands owned and managed by the National Park Service (NPS). For sewer projects affecting NPS lands, the timing of NPS's issuance of a permit to proceed will determine how much additional time WSSC has to complete such work. The citizens groups have a right to support or oppose a motion for modification of the Consent Decree by filing with the Court and serving on all parties a statement of position. Contacts: Yvette Roundtree, (215) 814-2685, Andrew Seligman, (215) 814-2097.

EPA and Koppers Inc. Reach Agreement On CWA Administrative Order to Abate Threat of Oil Discharge to Ohio River From WV Facility

On November 19, 2015, EPA signed an Administrative Order under Sections 311(c) and 311(e) of the CWA (Order) in which Koppers Inc. (Koppers) agreed to undertake activities to abate an imminent and substantial threat of a discharge of oil at Koppers' coke tar and petroleum refinery located 50 yards from the Ohio River in Follansbee, WV. EPA's July 21, 2015 inspection revealed inadequate secondary containment for millions of gallons of oil at the facility's North Tank Farm. In addition, Koppers produced documentation of integrity testing for only 2 of the Facility's approximately 92 above-ground oil storage tanks, many of which were rusted and damaged and some of which were installed as long as a century ago. The Facility has an

aggregate above-ground oil storage capacity of more than 18 million gallons, 11.4 million gallons of which are located in the North Tank Farm.

Under the Order, Respondent has agreed to expand secondary containment for the North Tank Farm, to repair deficiencies in its existing secondary containment there, and to expeditiously test tanks for integrity in accordance with an EPA-approved plan and schedule, prioritized based on the relative risk of rupture or collapse as determined by a third-party, qualified consultant. The Order expressly terminates an October 28, 2015 UAO issued to Koppers. Contacts: James Van Orden, (215) 814-2693, Rachel Simkins, (215) 814-3277.

Clean Air Act Settlement between U.S. EPA, Region 3 and Westrock CP, LLC. [EPA Docket No. CAA-03-2016-0031]

On November 30, 2015, pursuant to 40 C.F.R. § 22.18(b)(2) and (3) of the Consolidated Rules of Practice, EPA initiated and resolved violations of Section 112 of the Clean Air Act and its implementing regulations related to the National Emission Standards for Hazardous Air Pollutants from Pulp and Paper Industry, and federally enforceable permits against WestRock CP, LLC. WestRock operates a kraft pulp and paper mill in Hopewell, VA, that uses the kraft process to manufacture wood chips and recycled fiber (the Facility). The Facility is a major source of various hazardous air pollutants (HAPs), including methanol.

Under the terms of the Consent Agreement and Final Order WestRock will pay a penalty in the amount of $95,000 and perform certain non-penalty conditions (which include operating and monitoring requirements related to the Facility's Turpentine Collection and Recovery System, sampling and reporting requirements, and the performance of a root cause analysis and third party audit, if triggered by certain events). Contacts: Dennis M. Abraham, (215) 814-5214, Kristen Hall, (215) 814-2168.

UIC Permit Appeal filed with Environmental Appeals Board for Well in Penfield, PA

On November 30, 2015, EPA filed a response brief with the Environmental Appeals Board regarding an appeal of the Sammy-Mar LLC Underground Injection Control (UIC) Permit No. PAS2D030BCLE. The permit was issued by the Region on September 30, 2015. The site of the proposed Sammy-Mar Class II brine disposal well is located in Penfield, PA, in Clearfield County. On appeal, the petitioner raised issues concerning the location of fault lines and seismicity, the burden on local emergency services, economic concerns regarding well testing and possible well replacement, and potential effects on property values, wildlife and two state mining cleanup projects near Bennetts Branch of the Susquehanna River. The permit is stayed during the pendency of the appeal. Contacts: Cheryl L. Jamieson, (215) 814-2375, Roger Reinhart, (215) 814-5462.

Notice of Noncompliance and Request to Show Cause Issued to Nemacolin Country Club, in Beallsville, PA for TSCA PCB Violations

On November 25, 2015, the Region issued a Notice of Noncompliance and Request to Show Cause letter to Nemacolin Country Club (NCC) for violations of Sections 6(e) and 15 of TSCA. These violations are alleged to have arisen in connection with the operation of the NCC

facility located at 3100 National Pike West, Beallsville, PA. The letter alleges that NCC distributed PCBs in commerce without an exemption under TSCA when it submitted PCB-contaminated waste oil to Safety-Kleen, Inc., for recycling. EPA Region III calculated an initial penalty of $4,250.00 and provided NCC the opportunity to have a meeting to discuss the violations and proposed penalties prior to the issuance of an Administrative Complaint. Contacts: Jeffrey Nast, (215) 814-2652, Matthew Vitorla, (215) 814-2452, Craig Yussen, (215) 814-2151.

Show Cause Letters/Orders to Show Cause

EPA Issues a Show Cause Letter to Williamsport, Pennsylvania Landlords Regarding Potential Violations Under the Lead Disclosure Rule

On December 1, 2015, the Region issued a Show Cause Letter to landlords, Sean & Marcy McCann, alleging that they failed to comply with the Lead Disclosure Rule's notification and disclosure requirements before leasing target housing property to tenants where young children were present. The property is located in the Commonwealth of Pennsylvania. Proposed penalty is $66,860.00. Contacts: Donzetta Thomas, (215) 814-2474, Annie Hoyt, (410) 305-2640.

EPA Region III Issues RCRA Show Cause Letter to Galvco Maryland LLC, Baltimore Maryland

On December 3, 2015, EPA issued a Show Cause letter to Galvco Maryland LLC, a galvanized steel manufacturer. The Show Cause letter alleges Galvco violated RCRA Subtitle C requirements. EPA's allegations included operating a hazardous waste storage facility without a permit, failure to comply with RCRA's hazardous waste storage tank management requirements, hazardous waste determination requirements, and universal waste lamp management requirements. Contacts: Joyce Howell, (215) 814-2644, Stephen Forostiak, (215) 814-2136.

Region 5

Regular Highlights:

Enforcement and Compliance Assurance Issues

Region 5 Enters into a Consent Agreement and Final Order Resolving CAA Risk Management Program Violations by Crestwood Services, LLC, formerly Inergy Propane, LLC

On December 1, 2015, U.S. EPA Region 5 filed a Consent Agreement and Final Order (CAFO) resolving alleged CAA violations by Crestwood Services, LLC, formerly known as Inergy Propane, LLC. Crestwood operates a propane storage and distribution terminal in Seymour, Indiana. At the time of its 2013 creation-by-merger, Crestwood was a fully-integrated provider of midstream energy infrastructure with an enterprise value of $8 billion. The violations arose from Crestwood's failing to meet many CAA Section 112(r) Risk Management Program requirements, including but not limited to failing to update its risk management plan; failing to follow up on Process Hazard Analyses (called PHAs) and environmental audits of the facility; and failing to respond to an EPA information request. Pursuant to the CAFO, Respondent agreed to pay a civil penalty of $275,400. Contacts: Kris Vezner, Office of Regional Counsel, 312- 886-6827; and Greg Chomycia, Superfund Division, 312-353-8217.

Region 6

Regular Highlights:

Enforcement and Compliance Assurance Issues

Eagle Analytical Services, Inc. Signs Consent Agreement and Final Order for RCRA Violations

On December 2, 2015, EPA Region 6 issued a Consent Agreement and Final Order (CAFO) under Section 3008(a)(2) of the Resource Conservation and Recovery Act (RCRA) against Eagle Analytical Services, Inc., to address RCRA violations at its Houston testing lab for microbes, chemicals, and pharmaceuticals. At various times, the facility was generating more hazardous waste than was reflected in the notification of hazardous waste activities the facility provided to EPA and the State of Texas. Violations arose from the facility not meeting requirements that apply according to the facility's actual generator status. The CAFO requires the Respondent to pay an administrative penalty of $133,000 and additionally orders Respondent to obtain an EPA identification number and comply with its generator status requirements. Contacts: Brian Tomasovic, (214) 665-9725, Paul James, (214) 665-6445.

Settlement reached with Precilab LLC regarding RCRA violations

On December 2, 2015, Region 6 filed a Consent Agreement and Final Order (CAFO) resolving RCRA violations committed by .Precilab LLC at its facility in Carrollton, Texas. Between 2011 and 2015, Precilab failed to accurately characterize one hazardous waste stream generated by the facility. Precilab has agreed to pay $11,330 in civil penalties to resolve the violations. Contacts: Angela Hodges, (214) 665-2796; William Mansfield, (214) 665-8321.

Multi-District Litigation – In Re: Oil Spill by the Oil Rig "DeepWater Horizon" in the Gulf of Mexico, on April 20, 2010

On November 30, 2015, the U.S. District Court, Eastern District of Louisiana, issued its Findings of Fact and Conclusions of Law on the Penalty Phase of the Litigation (Phase III) against Defendant Anadarko Petroleum Corporation ("Anadarko"). In its decision, Judge Barbier assessed a civil penalty amount of $159,500,000 for Anadarko's Clean Water Act violation resulting from the DeepWater Horizon oil spill into the Gulf of Mexico from April 20, 2010 until July 15, 2010. In its decision, the Court noted Anadarko's involvement as a non-operating owner of the Macondo Well from which the oil was released into the Gulf. On December 15, 2011, the U.S. Department of Justice ("DOJ") filed a complaint against BP, Anadarko and other parties for alleged violations of the Clean Water Act for the April 20, 2010 discharge of an unknown amount of approximately 3.19 million barrels of crude oil from the blown out, underwater deep-sea Macondo Well in Mississippi Canyon 252 off the outer continental shelf off the Louisiana coast in the Gulf of Mexico. Contact: Edwin Quiñones, (214) 665-8035.

Region 7

Regular Highlights:

Enforcement and Compliance Assurance Issues

Retail Outlet Owner and Appliance Manufacturer Agree to Address Vapor Intrusion Risks at Former Small Appliance Manufacturing Plant

On November 20, 2015, Region 7 entered into an Administrative Settlement Agreement and Order on Consent for a Removal Action ("Settlement Agreement") with Compton's, LLC and Spectrum Brands, Inc. ("Respondents") regarding the Toastmaster Macon Site, a groundwater site located in Macon, Missouri. A TCE plume is emanating from a former small appliance manufacturing facility formerly owned and operated by Toastmaster, now part of Spectrum Brands, Inc. TCE was used at facility beginning in 1956, and was stored in a 5,000 gallon above ground storage tank adjacent to the building. In 2011, Compton's LLC purchased the Site and currently operates it as a retail outlet. The Site was formerly part of Missouri's Voluntary Cleanup Program, and was referred to EPA in August 2014.

Pursuant to the Settlement Agreement, Respondents are required to perform work detailed in the Work Plan attached to the Settlement Agreement. This work will include the installation of a vapor mitigation system in the former manufacturing building ("Facility"), conducting sub-slab and indoor air sampling of residences, installation of vapor mitigation systems in residences containing elevated levels of TCE, and monitoring the effectiveness of the vapor mitigation systems, in both the Facility and residences, by conducting confirmatory indoor air sampling following the installation of the systems. The Settlement Agreement also requires the payment of past costs and oversights costs associated with the Site, as well as finance assurance for the work to be performed. Contact: Kristen Nazar, 913-551-7450.

Region 8

Regular Highlights:

Enforcement and Compliance Assurance Issues

Region 8 Enters Into Settlement Agreement and Administrative Order on Consent for Performance of the RI/FS at the Columbia Falls Aluminum Plant Site in Flathead County, Montana

On November 30, 2015, Region 8 entered into a settlement agreement/administrative order on consent with Columbia Falls Aluminum Company for performance of the RI/FS at the Columbia Falls Aluminum Plant, also known as the Anaconda Company Columbia Falls Reduction Plant site, in Flathead County, Montana. The site, located two miles northeast of Columbia Falls, covers approximately 960 acres north of the Flathead River, a fishery that includes the federally designated threatened bull trout and the federally sensitive west slope cutthroat trout. EPA's initial evaluation indicates that ground water and surface water at the site contain various contaminants of concern, including cyanide, fluoride, and various metals. The Columbia Falls Aluminum plant operated between 1955 and 2009 and created significant quantities of spent pot liner material, a federally listed hazardous waste, as a byproduct of the aluminum smelting process. Spent pot liner material is known to contain cyanide compounds that can leach into groundwater. The site was proposed for listing on the NPL in March 2015. Contact: Mark Chalfant, Attorney, (303) 312-6177.

EPA Settles With J.R. Simplot for CAA Violation under the Prevention of Significant Deterioration Program

The U.S. Environmental Protection Agency and U.S. Department of Justice lodged a consent decree on December 3, 2015 resolving alleged Clean Air Act violations by J.R. Simplot Company related to modifications made at Simplot's five sulfuric acid plants near Lathrop, Calif., Pocatello, Idaho, and Rock Springs, Wyo. Under the settlement, Simplot will spend an estimated $41.5 million to install, upgrade, and operate pollution controls that will significantly cut sulfur dioxide (SO_2) emissions at all five plants, fund a wood stove replacement project in the area surrounding the Lathrop plant, and pay an $899,000 civil penalty. Cash penalty of $899,000 ($732,000 to be paid to the United States and $167,000 to be paid to the State of Idaho). Wyoming chose not to be a co-plaintiff to this settlement. Once all of the upgraded emissions controls have been implemented, the overall settlement will result in an estimated 2,540 tons per year reduction of SO_2 emissions, with the Wyoming Rock Springs Plants providing a 1,453 tons per year reduction. The installation of certain control upgrades are already taking place. One short-term interim limit is in effect. Engineering and design are underway and major construction is required to begin in July of 2017 and will be completed by 2019. Simplot must demonstrate compliance with a new long-term limit by July 2020. The two units will be restricted by new emission limits that represent a reduction of 55 percent and 70 percent from the previous permitted limits. The new limits are some of the lowest rates achieved in any sulfuric acid plant settlement to date. The upgrades at the Rock Springs, Wyoming plant are expected to cost over $20 million. Contact: Sheldon Muller, Attorney, (303) 312-6916.

Region 9

Regular Highlights:

Enforcement and Compliance Assurance Issues

District Court Issues Favorable Decision Dismissing ESA Citizens Suit Concerning CAA PSD Permitting and Enforcement for Gateway Generating Station

On November 20, 2015, the U.S. District Court for the Northern District of California granted EPA's motion to dismiss an Endangered Species Act (ESA) citizens suit filed by the Wild Equity Institute (WEI) against EPA regarding Clean Air Act (CAA) PSD permitting and enforcement for the Gateway Generating Station, a natural gas-fired power plant in Antioch, California. The Court dismissed the case with prejudice, finding that because the PSD permit at issue had expired, WEI had identified no federal agency action by EPA upon which to base its ESA reinitiation of consultation claim, and that even if WEI had done so, jurisdiction would lie with the Court of Appeals under CAA section 307(b). Contact: Julie Walters, ORC, 415-972-3892.

EPA Settles CAA Claims Against J.R. Simplot Company's Five Sulfuric Acid Plants in California, Idaho, and Wyoming

On December 3, 2015, the U.S. Department of Justice lodged a consent decree in the U.S. District Court in Boise, Idaho to resolve Clean Air Act ("CAA") violations associated with J.R. Simplot Company's ("Simplot") modifications of five sulfuric acid manufacturing plants in Lathrop, California; Pocatello, Idaho; and Rock Springs, Wyoming that resulted in substantially higher SO_2 emissions. Specifically, Simplot's plants failed to comply with the CAA Prevention of Significant Deterioration ("PSD") and Title V permit requirements. The consent decree requires Simplot to pay a civil penalty of $899,000 and perform a mitigation project worth $200,000 facilitating replacement of old wood-burning stoves with cleaner burning appliances in the San Joaquin Valley of California. The consent decree also requires Simplot to spend over $40 million to upgrade its air pollution control processes to comply with stringent short-term and long-term SO_2 limits and other requirements in operating its sulfuric acid plants. Contact: David Kim, ORC, 415-972-3882.

Region 10

Regular Highlights:

Enforcement and Compliance Assurance Issues

DOJ Enters Consent Decree with J.R. Simplot Company (Lathrop, CA, Pocatello, ID and Rock Springs, WY) for CAA Violations

On December 3, 2015, the U.S. Department of Justice lodged a consent decree in the U.S. District Court in Boise, Idaho to resolve Clean Air Act ("CAA") violations associated with J.R. Simplot Company's ("Simplot") modifications of its five sulfuric acid manufacturing plants in Lathrop, California; Pocatello, Idaho; and Rock Springs, Wyoming during 1991-2012 that resulted in substantially higher SO_2 emissions. Specifically, Simplot's plants failed to comply with the Prevention of Significant Deterioration ("PSD") requirements with respect to SO_2 at each of the five plants, and with respect to fine particulates ($PM_{2.5}$) and sulfuric acid mist at one of the Pocatello plants. The State of Idaho and San Joaquin Valley Unified Air Pollution Control District are also parties to the action. The consent decree requires Simplot to pay a civil penalty of $899,000 ($167,000 of which goes to Idaho) and perform a $200,000 wood stove replacement project near the Lathrop facility, which is located in a serious $PM_{2.5}$ nonattainment area. The consent decree also requires Simplot to spend over $40 million to upgrade its air pollution control processes to comply with stringent short-term and long-term SO_2 limits and other requirements in operating its sulfuric acid plants. Contacts: Julie Vergeront, (206) 553-1497; Roylene Cunningham, (206) 553-0513.

Region 10 Settles with Moyle Mink and Tannery, Inc. for CWA Violations

On November 10, 2015, Region 10 filed a consent agreement and final order against Moyle Mink and Tannery, Inc. in Heyburn, Idaho, resolving violations of the Clean Water Act pretreatment regulations. Respondent, which operates a tannery, exceeded the pH limit on numerous occasions. The company agreed to pay a penalty of $28,000. Contacts: Stephanie Mairs, (206) 553-7359; Chae Park, (206) 553-1441.
